

MATERIALS ON PROPERTY

PART III

D. Mendes da Costa
Faculty of Law
University of Toronto

1974-75

Faculty of Law
University of Toronto
Toronto, Ontario.

Store
KF
560
M4
1974
pt.3

MATERIALS ON PROPERTY

PART III

D. Mendes da Costa
Faculty of Law
University of Toronto

1974-75

Faculty of Law
University of Toronto
Toronto, Ontario.



Digitized by the Internet Archive
in 2023 with funding from
University of Toronto

<https://archive.org/details/materialsonprope03dmen>

*Annotations
1974/75
pt. 3*

CONTENTS - PART III

Bordell, The Law of Real Property
In Aid to Savill Brothers, Cases and Notes on Land Law
in Aid to Savill Brothers, Conveyancing and Law of Property

REAL PROPERTY

Laskin, Cases and Notes on Land Law
Conveyancing and Law of Property
Savill Brothers, Cases and Notes on Land Law

CHAPTER X

Savill Brothers, Cases and Notes on Land Law
Conveyancing and Law of Property
Savill Brothers, Cases and Notes on Land Law

FUTURE INTERESTS

Savill Brothers, Cases and Notes on Land Law
Conveyancing and Law of Property
Savill Brothers, Cases and Notes on Land Law

Section 1 INTRODUCTION

| | |
|--|---------|
| ✓ Problem | 10.1.1. |
| ✓ Casner and Leach, Cases and Text on Property | 10.1.2 |
| ✓ Simes and Smith, Law of Future Interests | 10.1.2 |
| ✓ Gulliver, Future Interests | 10.1.3 |

Section 2 COMMON LAW METHODS OF CREATING AND TRANSFERRING ESTATES

| | |
|------------------------------|--------|
| ✓ Gulliver, Future Interests | 10.2.1 |
|------------------------------|--------|

Section 3 REVERSIONS AND REMAINDERS

| | |
|--|--------|
| Megarry and Wade, The Law of Real Property | 10.3.1 |
| Megarry and Wade, The Law of Real Property | 10.3.2 |

Section 4 CONTINGENT REMAINDERS

| | |
|--|---------|
| Megarry & Wade p. 178-180 dated 1975 | |
| ✓ Gray, The Rule Against Perpetuities | 10.4.1 |
| ✓ Casner and Leach, Cases and Text on Property | 10.4.1 |
| ✓ Gray, The Rule Against Perpetuities | 10.4.2 |
| ✓ Megarry and Wade, The Law of Real Property | 10.4.3 |
| ✓ Re Duffield | 10.4.4 |
| ✓ Re Taylor | 10.4.7 |
| ✓ Megarry and Wade, The Law of Real Property | 10.4.13 |
| ✓ Savill Brothers, Ltd. v. Bethel | 10.4.13 |
| ✓ S. 6 of the Law of Real Property Act | 10.4.14 |
| ✓ Conveyancing and Law of Property Act | 10.4.14 |
| ✓ Megarry and Wade, The Law of Real Property | 10.4.14 |
| ✓ Reeve v. Long | 10.4.16 |
| ✓ The Conveyancing and Law of Property Act | 10.4.16 |
| ✓ Festing v. Allen | 10.4.16 |
| ✓ Megarry and Wade, The Law of Real Property | 10.4.18 |
| ✓ Laskin, Cases and Notes on Land Law | 10.4.18 |
| ✓ Conveyancing and Law of Property Act | 10.4.18 |

Section 5 ARTIFICIAL DESTRUCTION OF CONTINGENT REMAINDERS

| | |
|--|--------|
| Casner and Leach, Cases and Text on Property | 10.5.1 |
| Megarry and Wade, The Law of Real Property | 10.5.2 |
| Laskin, Cases and Notes on Land Law | 10.5.3 |
| ✓ Egerton v. Massey | 10.5.3 |
| The Conveyancing and Law of Property Act | 10.5.4 |

Section 6 USES BEFORE THE STATUTE OF USES

| | |
|---|--------|
| ✓ Krasnowiecki, Ownership and Development of Land | 10.6.1 |
| ✓ Megarry and Wade, The Law of Real Property | 10.6.3 |
| Note | 10.6.3 |
| Problems | 10.6.4 |

Section 7 THE STATUTE OF USES AND ITS CONSEQUENCES

| | |
|---|--------|
| ✓ Simpson, An Introduction to the History of Land Law | 10.7.1 |
| ✓ Casner and Leach, Cases and Text on Property | 10.7.3 |
| Megarry and Wade, The Law of Real Property | 10.7.5 |
| The Law and Transfer of Property Act | 10.7.6 |
| Conveyancing and Law of Property Act | 10.7.7 |

| | |
|--|----------|
| Bordwell, The Repeal of the Statute of Uses | 10.7.8 |
| An Act to Simplify the Transfer of Real Property | |
| in Upper Canada | 10.7.8 |
| Laskin, Cases and Notes on Land Law | 10.7.8 |
| Conveyancing and Law of Property Act | 10.7.9 |
| Savill Brothers, Limited v. Bethell | |
| <u>Section 8 THE RULE IN PUREFOY v. ROGERS</u> | |
| Megarry and Wade, The Law of Real Property | 10.8.1 |
| Purefoy v. Rogers | 10.8.2 |
| Gulliver, Future Interests | 10.8.3 |
| Problems | 10.8.4 |
| The Contingent Remainders Act | 10.8.4 |
| Note | 10.8.4 |
| <u>Section 9 PRESENT POSITION AS TO TESTATE AND INTESTATE SUCCESSION</u> | |
| Devolution of Estates Act | 10.9.1 |
| In Re Robson, Douglass v. Douglass | 10.9.1 |
| <u>Section 10 PRESENT POSITION AS TO THE SEPARATION OF LEGAL AND EQUITABLE INTERESTS</u> | |
| Casner and Leach, Cases and Text on Property | 10.10.1 |
| Problems | 10.10.2 |
| Megarry and Wade, The Law of Real Property | 10.10.3 |
| Re Smith and Dale | 10.10.5 |
| <u>Section 11 AN INTRODUCTION TO THE RULE AGAINST PERPETUITIES</u> | |
| (a) <u>General Rule</u> | |
| Gulliver, Future Interests | 10.11.1 |
| Leach, Perpetuities in a Nutshell | 10.11.2 |
| Aldercrest Developments Ltd. v. Hunter et al. | 10.11.5 |
| Note | 10.11.6 |
| (b) <u>Legislation</u> | |
| The Perpetuities Act | 10.11.8 |
| Note | 10.11.10 |
| (c) <u>Some Examples</u> | |
| Fast v. Van Vliet | 10.11.11 |
| Re Townsend | 10.11.19 |
| Louis J. Harris v. The Minister of National Revenue | 10.11.23 |
| Irving Industries (Irving Wire Products Division) | |
| Ltd. v. Sadim Oil & Gas Co. Ltd. | 10.11.29 |
| Re Seldon | 10.11.33 |
| Metropolitan Homes Ltd. v. Politzer | 10.11.35 |
| (d) <u>The Perpetuity Rule and Its Application to Legal Contingent Remainders</u> | |
| Megarry and Wade, The Law of Real Property | 10.11.40 |
| <u>Section 12 THE RULE IN SHELLY'S CASE</u> | |
| Laskin, Cases and Notes on Land Law | 10.12.1 |
| Tunis and Bamberger v. Passmore | 10.12.2 |
| Re McAllister | 10.12.4 |
| In Re Estate of Charles Tuck | 10.12.6 |

CHAPTER XICO-OWNERSHIP OF LANDSection 1 FORMS OF CO-OWNERSHIP

| | |
|--|---------|
| Problem | 11.1.1 |
| Wright v. Gibbons | 11.1.2 |
| Campbell v. Sovereign Securities & Holding Co. Ltd. | 11.1.9 |
| Campbell v. Sovereign Securities & Holding Co. Ltd. | 11.1.11 |
| Re Demaiter and Link | 11.1.12 |
| Registrar-General (N.S.W.) v. Wood | 11.1.13 |
| The Conveyancing and Law of Property Act | 11.1.15 |
| Megarry and Wade, The Law of Real Property | 11.1.15 |
| The Law of Property Act, 1925 | 11.1.16 |
| Mitchell v. Arblaster | 11.1.16 |
| Mendes da Costa, Co-Ownership Under Victorian Land Law | 11.1.17 |
| Bull v. Bull | 11.1.18 |
| Mendes da Costa, Co-Ownership Under Victorian Land Law | 11.1.18 |

Section 2 CREATION OF CO-OWNERSHIP

| | |
|---|--------|
| Re Dupont | 11.2.1 |
| McEwen v. Ewers and Ferguson | 11.2.4 |
| Campbell v. Sovereign Securities & Holding Co. Ltd. | 11.2.5 |
| Note | 11.2.6 |
| Hegeman v. Rogers | 11.2.7 |
| Problem | 11.2.8 |

Section 3 USE OF LAND BY CO-TENANTS(a) Relationship Between Co-Owners and Their Rights and Obligations Inter Se

| | |
|--|---------|
| Mendes da Costa, Co-Ownership Under Victorian Land Law | 11.3.1 |
| The Judicature Act | 11.3.5 |
| Henderson v. Eason | 11.3.6 |
| Isaryk v. Isaryk | 11.3.7 |
| Curtis v. Coleman | 11.3.9 |
| Re Brook and Brook | 11.3.11 |
| Luke et al. v. Luke et al. | 11.3.12 |
| Scapinello v. Scapinello | 11.3.17 |
| Osachuk v. Osachuk | 11.3.22 |
| Vol. 2 American Law of Property | 11.3.27 |

(b) Position as to the Law of Waste

| | |
|--|---------|
| The Conveyancing and Law of Property Act | 11.3.28 |
| Martyn v. Knowlly | 11.3.28 |

(c) Position where Improvements are Voluntarily Made

| | |
|--|---------|
| Lasby v. Crewson | 11.3.29 |
| Mastron v. Cotton | 11.3.30 |
| Brickwood v. Young | 11.3.32 |
| Ruptash and Lumsden v. Zawick and Zawick | 11.3.36 |

(d) Disposition by One Co-Owner

| | |
|--|---------|
| Mendes da Costa, Co-Ownership Under Victorian Land Law | 11.3.40 |
| Crampsey v. Deveney | 11.3.41 |

Section 4 SEVERANCE OF A JOINT TENANCY

| | |
|------------------------|---------|
| Schobelt v. Barber | 11.4.1 |
| Re Gore | 11.4.5 |
| Rasmanis v. Jurewitsch | 11.4.6 |
| Re Mee | 11.4.8 |
| Power v. Grace | 11.4.11 |
| Sirois v. Breton | 11.4.15 |

| | |
|------------------------------|---------|
| In Re Wilks, Child v. Bulmer | 11.4.17 |
| Ginn v. Armstrong | 11.4.19 |
| Szabo v. Boros et al | 11.4.22 |
| Frieze v. Unger | 11.4.23 |
| The Land Titles Act | 11.4.26 |
| Lyons v. Lyons | 11.4.26 |
| Re Foort and Chapman | 11.4.35 |

Section 5 CONVEYANCING AND CO-OWNERSHIP

| | |
|--|--------|
| The Conveyancing and Law of Property Act | 11.5.1 |
| The Mercantile Law Amendment Act | 11.5.1 |
| Re Sherrett and Gray | 11.5.2 |
| Rye v. Rye | 11.5.4 |
| Re Mancini et al and Saltzman | 11.5.8 |
| The Interpretation Act | 11.5.9 |

Section 6 PARTITION AND SALE

| | |
|--|---------|
| The Partition Act | 11.6.1 |
| Re Hutcheson and Hutcheson | 11.6.2 |
| Brown v. Brown | 11.6.6 |
| Re Roblin and Roblin | 11.6.8 |
| Re Perkins and Perkins | 11.6.10 |
| Berger v. Berger | 11.6.12 |
| McGeer v. Green and Westminister Mortgage Corp. Ltd. | 11.6.15 |
| Cook v. Johnston | 11.6.17 |
| Re Cates and Cates | 11.6.19 |

Section 7 PROBLEMS FOR REVIEW

CHAPTER XIITHE MATRIMONIAL HOME

| | |
|--------------|--------|
| Introduction | 12.1.1 |
| Problem | 12.1.1 |

Section 1 THE RIGHT TO POSSESSION

| | |
|----------------------------|---------|
| Re Perkins and Perkins | 12.1.2 |
| Beauchamp v. Beauchamp | 12.1.4 |
| Re Chliwniak and Chliwniak | 12.1.8 |
| Re Hearty and Hearty | 12.1.11 |
| Re Maskewycz and Maskewycz | 12.1.14 |
| The Matrimonial Homes Act, | |

Section 2 THE POSITION AS TO OWNERSHIP

| | |
|---|---------|
| Kearney v. Kearney | 12.2.1 |
| Stevens v. Brown | 12.2.3 |
| Trueman v. Trueman | 12.2.8 |
| Wiley v. Wiley | 12.2.12 |
| Murdoch v. Murdoch | 12.2.16 |
| Beard v. Beard | 12.2.29 |
| Morrison v. Guaranty Trust Co. of Canada | 12.2.29 |
| Re Taylor and Taylor | 12.2.29 |
| Bill 117, An Act to Reform Certain Laws Founded Upon Marital or Family Relationships | 12.2.30 |

